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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 NASTY GAL, INC., a California
19 Corporation; NAMELESS, INC., a California
20 Corporation; TOBI.COM LLC, a Delaware
21 Limited Liability Company; and DOES 1
22 through 10,

23 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

24 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
25 this honorable Court for relief based on the following:

26 **JURISDICTION AND VENUE**

27 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
28 *et seq.*

1 or have engaged in one or more of the wrongful practices alleged herein. The true
2 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
3 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
4 by such fictitious names, and will seek leave to amend this Complaint to show their
5 true names and capacities when same have been ascertained.

6 9. Plaintiff is informed and believes and thereon alleges that at all times
7 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
8 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
9 at all times acting within the scope of such agency, affiliation, alter-ego relationship
10 and/or employment; and actively participated in or subsequently ratified and/or
11 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
12 circumstances, including, but not limited to, full knowledge of each violation of
13 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

14 **CLAIMS RELATED TO DESIGN NO. 62194**

15 10. Plaintiff owns an original two-dimensional artwork used for purposes of
16 textile printing entitled 62194 ("Subject Design A") which has been registered with
17 the United States Copyright Office.

18 11. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
19 bearing Subject Design A to numerous parties in the fashion and apparel industries.

20 12. Plaintiff is informed and believes and thereon alleges that following its
21 distribution of Subject Design A, NASTY, NAMELESS, TOBI, DOE Defendants,
22 and each of them distributed and/or sold fabric and/or garments featuring a design
23 which is substantially similar to Subject Design A (hereinafter "Subject Product A")
24 without Plaintiff's authorization, including but not limited to products sold by

- 25 a. NASTY under Item No. 30901 and bearing the label "nameless"
26 indicating that it was manufactured by or for NAMELESS.

- b. TOBI under Style No. T5679 and bearing the label “nameless” indicating that it was manufactured by or for NAMELESS.
- c. Blue Sky under Style No. T5687 and bearing the label “nameless,” indicating that it was manufactured by or for NAMELESS.
- d. Joa + Closet under SKU 1304080015 and bearing the label “nameless,” indicating that it was manufactured by or for NAMELESS.

13. An image of Subject Design A and an exemplar of Subject Product A are set forth hereinbelow:

Subject Design A



Subject Product A



CLAIMS RELATED TO DESIGN NO. 63495

14. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 63495 (“Subject Design B”) which has been registered with the United States Copyright Office.

15. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design B to numerous parties in the fashion and apparel industries.

1 16. Plaintiff is informed and believes and thereon alleges that following its
 2 distribution of Subject Design B, NASTY, DOE Defendants, and each of them,
 3 manufactured, distributed, and/or sold fabric and/or garments comprised of fabric
 4 featuring a design which is identical, or substantially similar, to Subject Design B
 5 (hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not
 6 limited to products sold by NASTY under Item No. 23953 and bearing the label
 7 “Nasty Gal,” indicating that it was manufactured by or for NASTY.

8 17. An image of Subject Design B and an exemplar of Subject Product B are set
 9 forth hereinbelow:

10 **Subject Design B**



Subject Product B



23 **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement - Against All Defendants, and Each)

24 18. Plaintiff repeats, realleges and incorporates herein by reference as though
 25 fully set forth the allegations contained in the preceding paragraphs of this
 26 Complaint.

1 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, had access to Subject Designs A and B (collectively, “Subject
3 Designs”), including, without limitation, through (a) access to Plaintiff’s showroom
4 and/or design library; (b) access to illegally distributed copies of Subject Designs by
5 third-party vendors and/or DOE Defendants, including without limitation
6 international and/or overseas converters and printing mills; (c) access to Plaintiff’s
7 strike-offs and samples, and (d) access to garments in the marketplace manufactured
8 with lawfully printed fabric bearing Subject Designs.

9 20. Plaintiff is informed and believes and thereon alleges that one or more of
10 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
11 further informed and believes and thereon alleges that said Defendant(s), and each of
12 them, has an ongoing business relationship with Defendant retailers, and each of
13 them, and supplied garments to said retailers, which garments infringed Subject
14 Designs in that said garments were composed of fabric which featured unauthorized
15 print designs that were identical or substantially similar to Subject Designs, or were
16 an illegal modification thereof.

17 21. Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, infringed Plaintiff’s copyright by creating, making and/or developing
19 directly infringing and/or derivative works from Subject Designs and by producing,
20 distributing and/or selling Subject Products through a nationwide network of retail
21 stores, catalogues, and through on-line websites.

22 22. Due to Defendants’, and each of their, acts of infringement, Plaintiff has
23 suffered damages in an amount to be established at trial.

24 23. Due to Defendants’, and each of their, acts of copyright infringement as
25 alleged herein, Defendants, and each of them, have obtained profits they would not
26 otherwise have realized but for their infringement of Subject Designs. As such,
27 Plaintiff is entitled to disgorgement of Defendants’, and each of their, profits

1 attributable to the infringement of Subject Designs in an amount to be established at
2 trial.

3 24. Plaintiff is informed and believes and thereon alleges that Defendants, and
4 each of them, have committed copyright infringement with actual or constructive
5 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
6 and continue to be, willful, intentional and malicious.

7 **PRAYER FOR RELIEF**

8 Wherefore, Plaintiff prays for judgment as follows:

- 9 a. That Defendants—each of them—and their respective agents and
10 servants be enjoined from importing, manufacturing, distributing,
11 offering for sale, selling or otherwise trafficking in any product that
12 infringes Plaintiff's copyrights in Subject Designs;
- 13 b. That Plaintiff be awarded all profits of Defendants, and each of them,
14 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
15 or, if elected before final judgment, statutory damages as available under
16 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 17 c. That Plaintiff be awarded its attorneys' fees as available under the
18 Copyright Act U.S.C. § 101 et seq.;
- 19 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 20 e. That Plaintiff be awarded the costs of this action; and
- 21 f. That Plaintiff be awarded such further legal and equitable relief as the
22 Court deems proper.
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1 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
2 38 and the 7th Amendment to the United States Constitution.

3 Dated: June 8, 2015

DONIGER/BURROUGHS

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5 By: /s/ Stephen M. Doniger
6 Stephen M. Doniger, Esq.
7 Howard S. Han, Esq.
8 Attorneys for Plaintiff
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